



08-29-06

JAW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Gonzalez et al.

Serial No.: 10/804,477

Filed: March 19, 2004

For: VERTICAL DIODE STRUCTURES
(as amended)

Confirmation No.: 7257

Examiner: M. Estrada

Group Art Unit: 2823

Attorney Docket No.: 2269-7075.7US
(94-0308.07/US)

Notice of Allowance Mailed: July 25, 2006

NOTICE OF EXPRESS MAILING

Express Mail Mailing Label Number: EV 826303218 US

Date of Deposit with USPS: August 28, 2006

Person making Deposit: Joseph A. Walkowski

TRANSMITTAL LETTER

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

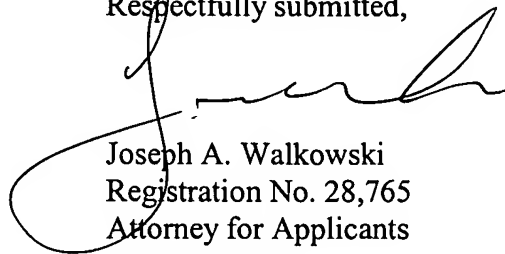
Applicants submit herewith Part B - Fee(s) Transmittal for the above-captioned application. Because Applicants previously paid an issue fee, publication fee, and extra copies fee for five (5) copies of the patent when issued, a Request to Apply Previously Paid Issue Fee to Issue Fee Required by New Notice of Allowance is enclosed.

Also enclosed are Comments on Statement of Reasons for Allowance (3 pages) and Fee Addressee for Receipt of PTO Notices Relating to Maintenance Fees (2 pages).

Serial No.: 10/804,477

Applicants understand that no additional fees are required. However, if the Office determines that any comparison fees or other additional fees are required, the Commissioner is authorized to charge any such fees to TraskBritt Deposit Account No. 20-1469. A copy of this Transmittal Letter is enclosed for deposit account charging purposes.

Respectfully submitted,



Joseph A. Walkowski
Registration No. 28,765
Attorney for Applicants
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: August 28, 2006
JAW/mah:slm

Enclosures: Part B - Issue Fee Transmittal
Copy of Transmittal Letter
Request to Apply Previously Paid Issue Fee to Issue Fee Required by New Notice
of Allowance (3 pages, including attachment)
Comments on Statement of Reasons for Allowance (3 pages)
Fee Addressee for Receipt of PTO Notices Relating to Maintenance Fees (2 pages)

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**REQUEST TO APPLY PREVIOUSLY PAID ISSUE FEE TO ISSUE FEE REQUIRED
BY NEW NOTICE OF ALLOWANCE**

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

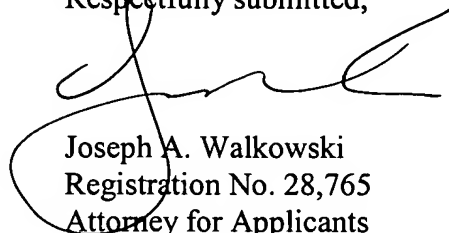
Sir:

Pursuant to the Decision Granting Petition Under 37 CFR 1.313(c)(2), mailed June 16, 2006, (a copy of which is attached hereto), Applicants respectfully request that the issue fee paid February 15, 2006, in the amount of \$1,715.00, be applied to the issue fee due under the new Notice of Allowance mailed July 25, 2006. The \$1,715.00 amount previously paid was for payment of the issue fee, the publication fee, plus five (5) extra copies of the patent when issued.

Serial No. 10/804,477

This Request is submitted simultaneously with the new Part B – Fee(s) Transmittal (Form PTOL-85) and accompanying papers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Walkowski', is written over the printed name and title.

Joseph A. Walkowski
Registration No. 28,765
Attorney for Applicants

TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: August 28, 2006
JAW/mah:slm

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UNITED STATES PATENT AND TRADEMARK OFFICE

TRASKBRITT, P.C.

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SALT LAKE CITY UT 84110

COPY MAILED

JUN 16 2006

OFFICE OF PETITIONS

In re Application of :
Fernando Gonzalez et al :
Application No. 10/804,477 :
Filed: March 19, 2004 :
Attorney Docket No. 11675.22.2.1.3.1 :

ON PETITION

This is a decision on the petition, filed June 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 15, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2823 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This communication is filed in response to the Notice of Allowance mailed July 25, 2006 and sets forth Applicants' comments, pursuant to 37 C.F.R. §1.104(e), on the Examiner's Statement of Allowable Subject Matter accompanying the Notice of Allowance.

In the Notice of Allowability mailed November 17, 2005, the Examiner indicates:

[T]here is no disclosure in the prior art of a polysilicon plug disposed within a diode opening and contacting the first metal silicide layer, the polysilicon plug comprising: a bottom portion in contact with the first refractory metal silicide layer and being lightly doped with the first conductivity type dopant, and a top

portion in contact with the bottom portion; and a material that is capable of changing states and resistivities vertically over an in communication with the polysilicon plug.]

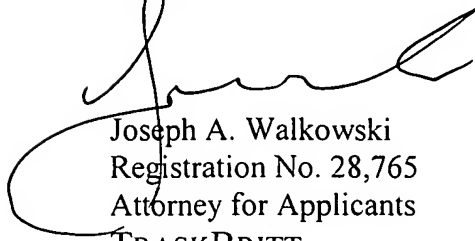
Applicants concur with the reasons as stated by the Examiner insofar as they comprise a summary, which is exemplary and not limiting. However, the scope of the claims is based on the actual language of the claims and equivalents thereof, and not on a paraphrase or summary of the claim language.

The independent claim as allowed recites features and methodology in addition to, and in different language than, those described in the Statement of Allowable Subject Matter. Furthermore, the dependent claims recite elements in addition to those of the independent claim, which are also not reflected in the Statement of Allowable Subject Matter. Such additional elements, in combination with those of the independent claims from which each claim depends, provide additional reasons for patentability. Accordingly, the scope of the claims must be determined from the literal language of each as a whole, as well as all equivalents thereof.

Therefore, to the extent that the Examiner's reasons for allowance as stated are not relevant to, or wholly encompassing of, a particular claim, independent or dependent, Applicants assumes that, pursuant to 37 C.F.R. §1.104(e), the Examiner has determined that the record of the prosecution as a whole of the application makes clear the reasons for allowing those claims. Further, it appears, pursuant to M.P.E.P. 1302.14, that the Examiner's Statements of Allowable Subject Matter are not intended to encompass all of the reasons for allowance.

Serial No. 10/804,477

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joseph A. Walkowski', with a large, sweeping loop at the end.

Joseph A. Walkowski
Registration No. 28,765
Attorney for Applicants
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P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: August 28, 2006
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